

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

Order No. O-12-143

FINAL AGENCY ORDER

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF
TRANSAMERICA LIFE INSURANCE COMPANY

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance ("Commissioner") as a result of a market conduct examination ("MCE") conducted by the Colorado Division of Insurance ("Division") of Transamerica Life Insurance Company ("Respondent"), pursuant to §§ 10-1-203, 204, and 205, as well as § 10-3-1106, C.R.S.

The Commissioner has fully considered and reviewed the Verified MCE Report ("Report") dated February 29, 2012, the Respondent's March 28, 2012 written submissions and rebuttals and other relevant work papers, including the recommendations of staff.

The Report covers the examination period of January 1, 2010, through December 31, 2010.

The Commissioner makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. At all relevant times during the examination, the Respondent was licensed by the Division to conduct business as a life, accident and health insurance company in the State of Colorado.
2. On February 24, 2012, in accordance with §§ 10-1-201, 10-1-203, 10-1-204, and 10-1-205, as well as § 10-3-1106, C.R.S., the Division completed an MCE of the Respondent. The period of examination was January 1, 2010, through December 31, 2010.
3. In conducting the MCE, the examiners observed those guidelines and procedures set forth in the 2010 Market Regulation Handbook adopted by the National Association of Insurance Commissioners.

4. The MCE was completed on February 24, 2012. Pursuant to § 10-1-205(2), C.R.S., the market conduct examiners prepared the Report, which the Examiner-in-Charge timely filed with the Division, under oath, on February 29, 2012. The Report was subsequently timely transmitted to Respondent on February 29, 2012.
5. On February 29, 2012, the Division provided the Respondent with written notification that it was afforded a right to file, within thirty (30) days, written submissions or rebuttals with respect to any matter contained in the Report.
6. Pursuant to § 10-1-205(1), C.R.S., the Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons who were examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
7. On March 28, 2012, Respondent timely filed written submissions and rebuttals to the Report as provided for at § 10-1-205(2), C.R.S.
8. The Commissioner has fully considered and reviewed the Report, Respondent's March 28, 2012, submissions and rebuttals to the Report, and other relevant work papers, including the recommendations of staff.
9. The MCE has proceeded under the substantive terms, authority and procedures set forth at §§ 10-1-201, 203, 204 and 205, C.R.S., as well as § 10-3-1106, C.R.S.
10. This MCE was not conducted as an informal investigation of consumer complaints.
11. This MCE did not proceed and was not conducted as a targeted on-site examination pursuant to § 10-1-212, C.R.S.

CONCLUSIONS OF LAW AND ORDER

12. Pursuant to § 10-1-205(3)(a), C.R.S., the Commissioner adopts the Report as filed (hereinafter referred to as the "adopted report"). The Commissioner hereby concludes no modifications or corrections to the report are necessary.
13. The Commissioner finds the Respondent operated in violation of Colorado insurance law and hereby orders the Respondent to take necessary and appropriate action, as set forth herein, to cure such violations.

The Commissioner considered the options available under §10-1-205(3)(b) and (c), C.R.S. After such consideration the Commissioner does not reject the Report or direct the examiners to reopen the examination for the purposes of obtaining additional data, documentation, or information, or to refile the Report pursuant to subsection (1) of §10-1-205, C.R.S. The Commissioner finds an investigatory hearing, pursuant to §10-

1-205(3)(c), C.R.S., for the purposes of obtaining additional documentation, data, information, and testimony, is not warranted or necessary for the resolution of any inconsistencies, discrepancies, or disputed issues.

14. A copy of the adopted report is attached to this Final Agency Order and is incorporated herein.
15. Issue E1: Failure, in some cases, to adhere to the original time period to claim suicide as a defense for nonpayment of claims, as required by Colorado insurance law. This failure constitutes a violation of § 10-7-109, C.R.S. No later than sixty (60) days from the date of this Final Agency Order, the Respondent shall provide written evidence to the Division that it has revised the content of all applicable policy forms to reflect the proper statutory interpretation related to suicide as a defense for the Respondent's non-payment of a life insurance policy. Within these sixty (60) days of the issuance of this Final Agency Order, Respondent shall also provide the Division with specimen copies, containing correct policy language, of all forms related to the referenced provision. Within sixty (60) days of the issuance of this Final Agency Order, Respondent shall provide the Division with the proposed date said forms shall be implemented and provided to all existing policyholders. Said proposed implementation date and policy holder notification date shall occur no later than 120 days from the issuance of this Final Agency Order. In addition, Respondent shall conduct a self-audit of all life insurance claims received from January 1, 2010 through April 30, 2012, to determine if any claims were denied as a result of Respondent's non-compliant interpretation of § 10-7-109, C.R.S., or Respondent's non-compliant suicide provision contained in Respondent's policy language. In the event the self-audit identifies any claims were denied as the result of the Respondent's inaccurate policy language or inaccurate application of the provision set forth at § 10-7-109, C.R.S., Respondent shall forthwith pay any benefits due to the beneficiaries, with interest calculated pursuant to § 10-7-112, C.R.S. and provide written documentation to the Division of all said payments. Respondent shall also provide a written report of the results of the self-audit to the Division within ninety (90) days from the date of this Final Agency Order.
16. Issue E2: Failure to include a compliant extension of benefits provision in a long-term care policy, as required by Colorado insurance law. This failure constitutes a violation of Colorado Insurance Regulation 4-4-1. The Respondent was required to provide written evidence to the Division that it had revised the content of all applicable policy forms to comply with Colorado Insurance Regulation 4-4-1,(6)(C), extension of benefits when a policy holder is institutionalized, as set forth in the Report. Respondent has represented in its submission and rebuttal, which were provided to the Division on March 28, 2012, that the cited form, which was found to be in violation of Colorado Insurance Regulation 4-4-1, is no longer being issued by Respondent. Respondent further represented to the Division that said form was withdrawn from use on June 30, 2011. Respondent also represented to the Division that it had not previously enforced the non-compliant extension of benefits provision and that the terms set forth in the provision would not be enforced in the future. Therefore, in lieu

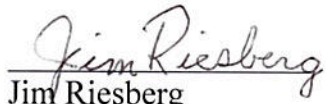
of requiring Respondent to revise the content of the cited form, Respondent shall, within sixty (60) days of the issuance of this Final Agency Order, provide written notice to all individuals to whom the referenced form was issued, prominently advising those individuals that the non-compliant provision for extension of benefits, which was identified and set forth in the Report, shall not be enforced against the policy holder. Within ninety (90) day of the issuance of this Final Agency Order, Respondent shall provide the Division with written confirmation that all said notices to policyholders have been sent.

17. Issue H1: Failure, in some cases, to provide a replacement notice to policyholders, and/or to provide the notice within the time frame required by Colorado insurance law. This failure constitutes a violation of Colorado Insurance Regulation 4-1-4. The Respondent was required to provide written evidence to the Division that when a replacement was involved, it had revised its procedures to ensure that a replacement notice letter is sent to all annuity and life policyholders within five (5) business days. The Respondent has provided a copy of its revised procedure for replacement notices for its annuity business, which if fully implemented, appears to comply with the required corrective actions. Respondent has represented to the Division that it is in the process of updating the written procedure for its life replacement notices. Within thirty (30) days from the date of this Final Agency Order, Respondent shall provide the Division with a copy of the revised written procedure for life replacement notices and documentation of the date said procedure shall be implemented. Said proposed implementation date shall no later than sixty (60) days of the issuance of this Final Agency Order.
18. The issues and violations described in paragraphs 15 through 17 above are grounds for penalties to be levied pursuant to § 10-1-205(3)(d), C.R.S. The Commissioner hereby orders a civil penalty in the amount of five thousand seven hundred and no/100 dollars (\$5,700.00) for the cited violations of Colorado law. The \$5,700.00 penalty shall be assessed a surcharge of 10% of the penalty amount pursuant to 24-34-108, C.R.S. Thus, the surcharge assessed is \$570.00. The total balance due, including the surcharge, is six thousand two hundred seventy dollars (\$6,270.00). The surcharge shall be used to fund the development, implementation and maintenance of a consumer outreach and education program. The penalty and surcharge shall be due to the Division no later than thirty (30) days from the date of this Final Agency Order.
19. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Final Agency Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and this Final Agency Order, dated April 30, 2012.
20. This Final Agency Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Final Agency Order, or occurring before or after the examination period. Failure by the Respondent to

comply with the terms of this Final Agency Order may result in additional actions, penalties and sanctions, as provided for by law. Copies of the adopted report and this Final Agency Order will be made available to the public no earlier than thirty (30) days after the date of this Final Agency Order, subject to the requirements of § 10-1-205, C.R.S.

21. Pursuant to § 10-1-205(4)(a), C.R.S., this Final Agency Order shall be considered a final agency decision. Review of such decision may be sought in the District Court in and for the City and County of Denver and shall be governed by the "State Administrative Procedure Act," Article 4 of Title 24, C.R.S.
22. Pursuant to § 10-1-205(4)(e), C.R.S., the civil penalty assessed in this Final Agency Order may be appealed directly to the Colorado Court of Appeals within the applicable time frames of the Colorado Appellate Rules.

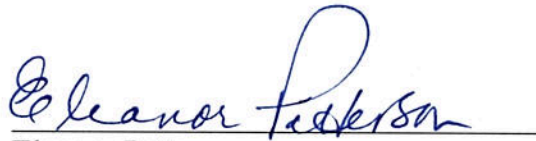
WHEREFORE: The Commissioner hereby adopts the Report dated February 29, 2012, without modifications or corrections, and issues the findings of facts and conclusions of law set forth herein. The within Final Agency Order and adopted report shall be considered effective, filed and made an official record of the Division of Insurance this 30th day of April 2012. Final Agency Order


Jim Riesberg
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of April, 2012, I caused to be deposited the **FINAL AGENCY ORDER NO. O-12-143 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF TRANSAMERICA LIFE INSURANCE COMPANY**, in the United States Mail via certified mailing with postage affixed and addressed to:

Kenneth P. Kilbane, Chairman of the Board
Transamerica Life Insurance Company
4333 Edgewood Road, NE
Cedar Rapids, IA 52499

A handwritten signature in blue ink, reading "Eleanor Patterson", is written over a horizontal line.

Eleanor Patterson
Market Regulation Administrator
Division of Insurance